

REMARKS

Before entry of this Amendment and Response, the status of the application according to the pending Office action is as follows:

- Restriction to one of the following inventions is required under 35 U.S.C. § 121: (I) claims 1-20, drawn to a balance shoe assembly; or (II) claim 20-26, drawn to a method of locking and unlocking a balance shoe in a window frame.
- The Abstract of the Disclosure is objected to, because it contains easily implied wording that should be deleted.
- Claims 10-14 and 16-20 are objected to because the preamble of the claims does not agree with the preamble of the independent claims from which those claims depend.
- Claims 1-20 are rejected under 35 U.S.C. § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- Claims 1, 2, 5, 7-9, 12, 13, 15, 18, and 20 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,280,511 to Johnson (hereinafter "Johnson").
- Claims 1-4, 6-11, 13-17, 19, and 20 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,658,794 to Hansel et al. (hereinafter "Hansel").

Applicants hereby amend the Abstract of the Disclosure to overcome the objection thereto and to correct a typographical error. Applicants also hereby amend claims 1, 4, 5, 9-12, and 14-19, and cancel claims 2, 13, and 20. No new matter is added thereby. Support for the amendments can be found in the specification as filed, at least at paragraphs [0028]-[0029] and FIGS. 3 and 5, and in the claims.

Applicants appreciate the Examiner's courtesy in granting Applicants' representative the telephonic interview held on August 14, 2006, and the helpful suggestions made by the Examiner during the interview regarding the claims and prior art. Applicants submit that this Amendment and Response serves as the Applicants' Statement of the Substance of the Interview in accordance with 37 C.F.R. § 1.133(b). During the interview, Applicants' representative proposed amendments to the claims to overcome the art of record, and the disclosures of the art of record were discussed. The remarks regarding patentability of the claims as amended, set forth herein, are consistent with those discussed during the interview.

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121: (I) claims 1-20, drawn to a balance shoe assembly; or (II) claim 20-26, drawn to a method of locking and unlocking a balance shoe in a window frame. With this Amendment and Response, Applicants hereby affirm election of the claims identified in the Office action as Group I, claims 1-20. Claims 21-26 are hereby withdrawn.

2. The Abstract of the Disclosure is objected to because it contains easily implied wording that should be deleted. Applicants hereby amend the Abstract of the Disclosure to remove the language identified by the Examiner, and respectfully submit that this objection has been overcome.

3. Claims 10-14 and 16-20 are objected to because the preamble of the claims does not agree with the preamble of the independent claims from which those claims depend. Applicants hereby amend claims 10-12, 14, and 16-19, such that the preambles of those claims agree with those of the independent claims from which they depend. Thus, Applicants respectfully submit that the objection to those claims has been overcome. Applicants also hereby cancel claims 13 and 20, thus rendering the rejection moot with regard to those claims.

4. Claims 1-20 are rejected under 35 U.S.C. § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully traverse the rejection, as applied to the claims, as amended. Applicants hereby amend claims 1, 5, 9, 12, 15, and 18 to more clearly define the subject matter which Applicants regard as the invention. Applicants appreciate the Examiner's suggestion with regard to the language of claim 4 and have made alternative amendments to the claim that Applicants respectfully submit overcome the rejection. Applicants also hereby cancel claims 2, 13, and 20, thus rendering the rejection moot of regard to these claims. Accordingly, Applicants respectfully submit that the claims as amended, and the claims that depend from the amended claims, are not indefinite under 35 U.S.C. § 112, ¶ 2.

5. Claims 1, 2, 5, 7-9, 12, 13, 15, 18, and 20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Johnson. Applicants respectfully traverse the rejection, as applied to the claims, as amended. Applicants have cancelled claims 2, 13, and 20, thus rendering the rejection moot with regard to those claims.

Johnson appears to describe a sash and latch assembly including a block 13 having a protruding rib 14 that engages a vertical socket or recess 15 in a jamb liner 7. Johnson, col. 2, ll. 49-59; FIG. 4. The block 13 is positioned between opposite portions of a sash rail 11, which is set between flanges 9, 10 which guide the sash rail 11 as the sash 6 is raised and lowered. Johnson, col. 2, ll. 38-53; FIG. 2. A latch 17 having a finger 19 is located below the block 13. Johnson, col. 3, ll. 4-11; FIG. 2. A coil spring 22 forces the finger 19 toward the recess 15 and, when the sash 6 is positioned in a particular height in the window, forces the finger 19 into a slot 21 in the jamb liner 7. Johnson, col. 3, ll. 19-29. When the finger 19 is engaged in the slot 21, the block 13 may be removed from engagement with the sash rail 11, thus allowing the sash 6 to

be removed from the frame 2. Johnson, col. 3, ll. 29-34. An arm 24 on a distal end of the latch 17 from the finger 19 allows the finger 19 to be retracted and the sash 6 to be moved beyond the locked position. Johnson, col. 3, ll. 49-54.

In contrast, Applicants claim, in amended claims 1, 9, and 15, a balance shoe comprising, *inter alia*, a “pivoting locking member extending beyond only one of the sliding surfaces and the lower end of the slide block at least when the pivoting locking member is in the locking position.” Applicants respectfully submit that Johnson fails to teach or suggest, at a minimum, a “pivoting locking member extending beyond *only one of the sliding surfaces* and the lower end of the slide block at least when the pivoting locking member is in the locking position.” The block 13 of Johnson is set within the sash rail 11, which in turn, slides between the flanges 9, 10. Accordingly, the sides of block 13 are not sliding surfaces, instead the *sash rail* 11 guides the sash within the flanges of the window jamb.

Applicants also note that, should any portions along the outer edge of the rib 14 itself be considered “oppositely disposed sliding surfaces,” Johnson still does not anticipate the amended claims because the finger 19 does not “extend[] beyond *only one* of the sliding surfaces . . . when the pivoting locking member is in the locking position.” The finger 19 appears significantly larger than the rib 14, and thus would extend beyond *every surface* of the rib 14. For example, FIG. 3 shows the latch 17 (having finger 19) as significantly wider than the socket 15, and FIG. 1 depicts the finger 19, extending beyond the rearmost wall of the socket 15. Thus, it appears that the finger 19 is dimensioned such that it cannot “extend[] beyond *only one* of the sliding surfaces . . . when the pivoting locking member is in the locking position.”

Accordingly, Applicants respectfully submit that amended claims 1, 9, and 15 are patentable over Johnson under 35 U.S.C. § 102(b). Because claims 5, 7, 8, 12, and 18 depend

directly from the amended claims, and include all the respective limitations thereof, Applicants respectfully submit that those claims are patentable as well. Therefore, Applicants respectfully request reconsideration, withdrawal of all grounds of rejection and objection, and passage of claims 1, 5, 7-9, 12, 15, and 18 to allowance.

6. Claims 1-4, 6-11, 13-17, 19, and 20 are rejected under 35 U.S.C. § 102(e) as being anticipated by Hansel. Applicants respectfully traverse the rejection, as applied to the claims, as amended. Applicants have cancelled claims 2, 13, and 20, thus rendering the rejection moot with regard to those claims.

Hansel appears to describe a balance shoe assembly 20 for a tilt-out window sash, including a balance shoe housing 22, and a locking cam 24, that includes a plurality of serrations 28. Hansel, col. 3, l. 66 – col. 4, l. 2. The locking cam 24 includes a retaining region 32 that is sized to receive a sash pin 34, which is secured to a tiltable window sash 14. Hansel, col. 4, ll. 3-4. When the window sash 14 is tilted, the pin 34 rotates the locking cam 24, engaging the serrations 28 with the jamb channel 18 on either side of the balance shoe assembly 20. Hansel, col. 5, ll. 18-28; FIGS. 5, 7, and 8.

In contrast, Applicants claim, in amended claims 1, 9, and 15, a balance shoe comprising, *inter alia*, a “pivoting locking member extending beyond only one of the sliding surfaces and the lower end of the slide block at least when the pivoting locking member is in the locking position.” Applicants respectfully submit that Hansel fails to teach or suggest, at a minimum, a “pivoting locking member extending beyond *only one of the sliding surfaces* and the lower end of the slide block at least when the pivoting locking member is in the locking position.” As clearly shown in FIG. 5, when the sash 14 is in the upright position, the locking cam 24 is positioned so as to not project beyond the width of the balance shoe housing 22, allowing the

sash 14 to move freely within the jamb channel 18. When the sash 14 is tilted out, however, the locking cam 24 rotates, forcing the serrations 28 to project beyond *both* sides of the balance shoe housing 22, as depicted in FIGS. 7 and 8, thus locking the sash 14 in place.

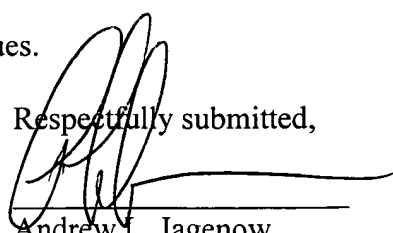
Accordingly, Applicants respectfully submit that amended claims 1, 9, and 15 are patentable over Hansel under 35 U.S.C. § 102(e). Because claims 3, 4, 6-11, 14-17, and 19 depend, either directly or indirectly, from the amended claims, and include all the respective limitations thereof, Applicants respectfully submit that these claims are patentable as well. Therefore, Applicants respectfully request reconsideration, withdrawal of all grounds of rejection and objection, and passage of claims 1, 3, 4, 6-11, 14-17, and 19 to allowance.

#### CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration, withdrawal of all grounds of rejection and objection, and allowance of claims 1, 3-12, and 14-19 in due course. The Examiner is invited to contact Applicants' undersigned representative by telephone at the number listed below to discuss any outstanding issues.

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Respectfully submitted,



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